

Testimony of Congresswoman Carolyn B. Maloney  
"The Need for CFIUS Reform to Address Homeland Security Concerns"  
House Homeland Security Committee  
Full Committee Hearing  
311 Cannon House Office Building.  
May 24, 2006  
1:00 P.M.

I would like to thank Chairman King and Ranking Member Thompson for inviting me to testify before the committee today on the bipartisan CFIUS (Committee on Foreign Investment in the United States) reform legislation that I have introduced with Majority Whip Blunt and Representatives Pryce and Crowley.

As Ranking Member of the Financial Services Subcommittee on Domestic and International Monetary Policy, Technology and Trade, we have held three hearings into the CFIUS process. At these hearings we have heard from the Administration, the business community, experts and academia about the need to reform the CFIUS process and their suggestions on how to accomplish this.

At our hearings, especially the first hearing that focused on the Dubai Ports World transaction, it was astounding how tone-deaf the CFIUS board was as they reviewed national security concerns related to this transaction. The fact that CFIUS did not consider "critical infrastructure" as a factor potentially impacting national security certainly does not represent a post-9/11 view of the world and backs up the GAO's prior finding that CFIUS can too narrowly define what constitutes a threat to national security.

In March, following our first hearing, I introduced H.R. 4915, the Committee on Foreign Investment in the United States Reform Act. This legislation enacts reforms suggested by the Government Accountability Office (GAO) in a report they prepared **before** Dubai Ports World was a household name.

Following the introduction of this legislation, I was pleased to work in a bipartisan manner to develop H.R. 5337, the Reform of National Security Reviews of Foreign Direct Investments Act. This legislation incorporates many of the provisions included in H.R. 4915 and the GAO report.

H.R. 5337 is common sense legislation that makes the CFIUS process more transparent and accountable while protecting our national security.

Specifically, H.R. 5337:

**Ensures that National Security Needs are met by:**

- Mandating a 45-day investigation for all transactions that would result in control by a foreign government.
- Adding the Department of Homeland Security as the vice-chair of the CFIUS board.

- Establishing a formal analysis by the Director of National Intelligence of every transaction. This legislation gives the DNI 30-days to complete his review, but requires the review to be completed 7-days before the end of the 30-day review.
- Expanding the definition of homeland security by requiring the CFIUS board to consider “critical infrastructure” as a factor in any review.

**This legislation also restores accountability and adds transparency to the process by:**

- Establishing CFIUS in statute.
- Requiring the signature of the chair and vice chair on all decisions and only allows this authority to be delegated to the deputy secretary at each agency.
- Requiring that withdrawal requests are in writing and that they receive the approval of the Chair in consultation with the Vice Chair.
- Establishing a formal method for tracking and enforcing post-transaction compliance with mitigation agreements and for tracking any post-transaction changes in such agreements.
- Providing specific funding to the process (\$10 million over four years) to make sure that reviews are not abbreviated for lack of resources.

**This legislation also improves Congressional Oversight by:**

- Requiring notice to bipartisan leadership and to every committee with jurisdiction over any aspect of a transaction after each investigation.
- Allowing any Member receiving such notice to request that his or her chamber receive a classified briefing on the transaction.
- Requiring thorough and semi-annual reporting to Congress on activities of the Committee, including trend analysis of foreign investments and of industrial espionage or attempts to control a type of asset or sector. These provisions strike the appropriate balance between proper oversight while not politicizing the process.

As the Dubai Ports World deal showed, the CFIUS process is in desperate need of reform. It is our responsibility to ensure that this is done in a deliberative manner that will effectively examine the national security risk of all transactions, while making sure we do not chill foreign investment in the United States.

As I said at the beginning of my testimony, I believe H.R. 5337 strikes the appropriate balance of protecting our national security while increasing the transparency and accountability of the CFIUS process.

I thank the Committee for allowing me to testify, and I look forward to your questions.